

## **MINUTES**

### **MONTANA HOUSE OF REPRESENTATIVES 58th LEGISLATURE - REGULAR SESSION**

#### **COMMITTEE ON EDUCATION**

**Call to Order:** By **CHAIRMAN JOAN ANDERSEN**, on February 10, 2003  
at 3:00 P.M., in Room 137 Capitol.

#### **ROLL CALL**

**Members Present:**

Rep. Joan Andersen, Chairman (R)  
Rep. Larry Lehman, Vice Chairman (R)  
Rep. Norman Ballantyne (D)  
Rep. Norma Bixby (D)  
Rep. Gary Branae (D)  
Rep. Carol Gibson (D)  
Rep. Bob Lake (R)  
Rep. Bob Lawson (R)  
Rep. Joe McKenney (R)  
Rep. Pat Wagman (R)

**Members Excused:** Rep. Verdell Jackson (R)

**Members Absent:** Rep. Kathleen Galvin-Halcro, Vice Chairman (D)  
Rep. Nancy Fritz (D)  
Rep. Clarice Schrumpf (R)

**Staff Present:** Eddy McClure, Legislative Branch  
Mari Prewett, Committee Secretary

**Please Note.** These are summary minutes. Testimony and discussion are paraphrased and condensed. The time stamp in these minutes appears at the end of the content it refers to.

**Committee Business Summary:**

Hearing & Date Posted: HB 193, 1/3/2003  
Executive Action: HB 422; HB 423

REP. SCHRUMPF arrived at hearing.

**HEARING ON HB 193**

**Sponsor:** REP. GARY BRANAE, HD 17, Billings

**Opening Statement by Sponsor:**

**REP. BRANAE** talked to the Committee about the needs of the youth in the State and the need to provide them with an adequate education. He further commented on the financial crisis facing Montana. **REP. BRANAE** stated that HB 193 was a bill that would help to achieve proper funding of education. He continued that HB 193 provided a new approach to help provide much needed resources. HB 193 would look beyond the traditional approach to educational funding and attempt to put money in the classroom. **REP. BRANAE** pointed out the finer details of HB 193 to the Committee regarding the per-educator entitlements. He urged the Committee to pass HB 193.

**Proponents' Testimony:**

**Linda McCulloch, Superintendent, Office of Public Instruction,** spoke in support of HB 193. Ms. McCulloch provided written testimony which she read to the Committee. The written testimony is attached as Exhibit 1.

**EXHIBIT (edh29a01)**

REP. FRITZ arrived at hearing.

**Eric Feaver, MEA/MFT,** stated MEA/MFT is committed to HB 193. **Mr. Feaver** remarked that the Union felt that HB 193 was the best bill that could be introduced this session addressing the ongoing problems of the current school funding formula. **Mr. Feaver** talked about the fixed costs and the need for teachers to teach even if the number of students has declined. He explained the hardships put on the schools when enrollment drops and the schools lose funding. **Mr. Feaver** went on to say that he felt that it was time for changes in the funding formula and recognize that personnel are fixed costs. He indicated that he felt there was a better way to fund the schools than by the Average Number Belonging (ANB). He continued stating that it was time for reform to maintain programs and urged that the Committee adopt HB 193.

**Lance Melton, Montana School Boards Association (MSBA),** spoke in support of HB 193. He stated that HB 193 would provide additional balance and predictability to the funding formula that

does not exist. **Mr. Melton** pointed out that MSBA felt the per-educator entitlement would benefit smaller schools proportionately to a large degree as does the per-pupil amount and the basic entitlement amount. **Mr. Melton** explained that HB 193 was the most predictable way found to ensure that money stays in the classrooms. **Mr. Melton** urged the Committee's favorable consideration of the bill.

**Darrell Rud, Executive Director, School Administrators of Montana**, spoke in support of HB 193. He stated he believed that this was a common sense approach that was easy to understand, easy to manage, easy to follow, good for Montana schools and good for Montana children. **Mr. Rud** urged a do pass on HB 193.

**Dave Puyear, MREA**, stated that they supported HB 193. **Mr. Puyear** commented that over the course of the last ten years Montana had developed a culture and discussion in regard to the funding formula. He continued that the formula had gone through many changes to reflect the expenses involved with supporting education in the small communities. **Mr. Puyear** pointed out that this was one of the few proposals being presented that was different, innovative and would protect the funding formula.

**Opponents' Testimony:** None

**Informational Testimony:** None

*{Tape: 1; Side: A; Approx. Time Counter: 0 - 18.3}*

**Questions from Committee Members and Responses:**

**REP. LEHMAN** asked **REP. BRANAE** if he was correct in assuming that, should the bill pass, the money was not earmarked for teacher salaries. **REP. BRANAE** replied that the money would be earmarked for the school districts to use at their discretion. **REP. BRANAE** stated that the assumption was that the money would be used for teacher salary increases and benefits.

**REP. LEHMAN** asked **REP. BRANAE** if there had been any consideration by him and other members of the educational community if they would consider amending the bill so that the money would go specifically to teacher salaries. **REP. BRANAE** replied that they were open to considering different possibilities.

**REP. LEHMAN** asked **Mr. Feaver** if he saw HB 193 as a precursor to a reform approach to funding for schools as opposed to the ANB enrollment basis. **Mr. Feaver** stated that he did. He continued that he hoped it was more than a precursor, that if it could be

gotten into the formula in future years it would add dollars where they mattered.

**REP. LEHMAN** asked Mr. Feaver if the Interim Committee studying school funding had come up with a plan that was similar to this plan. **Mr. Feaver** stated that they had taken this plan to the Advisory Committees' attention. He went on to say that the Committee had not accepted the plan.

**REP. WAGMAN** asked Mr. Melton why there were no teachers, trustees or other administrators there to testify in support of the bill. **Mr. Melton** answered that they are members of his association and MREA for the purpose of having advocates available to represent them. He further stated that the issue had been discussed at length at the annual meeting and had been supported in concept and that no one had voted against it.

**REP. GIBSON** asked REP. BRANAE if she was correct in that the money would be sent to the school districts and then the Board would determine how and where the money would be spent. **REP. BRANAE** replied that it was not stated specifically in the bill that the money would go toward teacher salaries or anything else specifically. He continued that it could be used for teacher salaries.

**REP. LAKE** asked REP. BRANAE if the funding was going to the districts, why there was a built-in retirement amount in the fiscal note. **REP. BRANAE** deferred to Madalyn Quinlan for an answer. **Ms. Quinlan, Office of Public Instruction (OPI)**, stated that the reason for the additional cost for retirement was that there was an assumption in the fiscal note that the money would increase teacher salaries, thereby increasing retirement benefits which would raise the cost to the State.

**CHAIRMAN ANDERSEN** asked REP. BRANAE if he would address technical note Number 2 on Page 2 of the fiscal note. **REP. BRANAE** stated that, with regard to equalization, federal funds enter into the formula to a certain extent. He continued that there could be a situation where some districts have more teachers funded by federal funds than other districts. At that point **REP. BRANAE** deferred the question to Madalyn Quinlan of OPI. **Ms. Quinlan** stated that the technical note had been added by the Governor's Budget Office. She continued saying that she felt what was being said was that schools that had access to federal monies would be able to hire some additional staff with those funds. **Ms. Quinlan** pointed out to the Committee that for every dollar schools spend on salaries only 8.8 cents is from federal funds. Therefore, it is not a huge portion of the picture.

**CHAIRMAN ANDERSEN** asked Ms. McCulloch about "The No Child Left Behind" and the money that the State would receive as a result of that program. She further asked if any of that money was slated for or going to be used to increase staffing in some of the schools. **Ms. McCulloch** replied that there was no guarantee and she could not give a definite yes or no answer.

**REP. GIBSON** asked **REP. BRANAE** if a teacher were moved into a consultant position if they would still be counted as a full-time teacher for the per-educator entitlement.

*{Tape: 1; Side: A; Approx. Time Counter: 18.3 - 31.2}*

**REP. BRANAE** referred to the bill and stated that he believed that those consultant/teachers who were employed full-time would be included in the count for the per-educator entitlement.

**CHAIRMAN ANDERSEN** asked Lance Melton if he would explain to the Committee how they arrived at the equalization method of funding schools currently in place whereby there is a per ANB entitlement and a basic entitlement. **Mr. Melton** stated that the underlying assumptions of the current formula were that geographic sparsity increases cost. He continued that it was the way that OPI measured equalization so that smaller school districts were not compared to larger school districts to measure whether the system was equal or not. **Mr. Melton** explained that they use similar enrollment trends, using similarly sized districts for comparison. The key behind the formula is the basic entitlement which gets the school district started.

**Closing by Sponsor:**

**REP. BRANAE** stated that in times of disarray, in terms of educational funding, it is good to look at different ways of doing things. He went on to say, that he felt this proposal involved simplicity, fairness and equality. **REP. BRANAE** explained that this was a way to provide money for children in the classrooms, and to make the educational system in the State better. **REP. BRANAE** pointed out that Montana has a good educational system and funding needs to be provided in order to make sure that the educational system continues to be good. **REP. BRANAE** asked the Committee for their support on this bill.

**EXECUTIVE ACTION ON HB 423**

**Motion:** REP. BIXBY moved that HB 423 DO PASS.

**Discussion:**

REP. BIXBY spoke in favor of HB 423 and reiterated her feelings about how an Indian preference would be very beneficial to the education of American Indian children.

REP. JACKSON voiced his concerns about HB 423. He questioned why the wording "substantially equal qualifications" was needed as he felt that, through interviewing, it could be established which applicant was more suited for the teaching position. REP. JACKSON further indicated that he felt that job positions could be posted that require the ability to teach in a manner better suited to the Indian culture. REP. JACKSON expressed his concern that preference could be construed as discrimination based on race.

REP. LAKE stated he did not understand the need for HB 423. He continued that he did not feel that the bill fit into the intent of what HB 422 was trying to do. REP. LAKE declared he was concerned about the purpose of the bill and, therefore, would oppose HB 423.

REP. BALLANTYNE stated he agreed with REP. LAKE and also would oppose HB 423.

REP. LEHMAN commented that he believed there would be problems with any type of preference bill and stated he would oppose passage of the bill.

REP. BIXBY advised the Committee that due to Shook v. Montana, Indians are not racial they are political. As such, she felt there was a good case to have a policy on Indian preference.

REP. BIXBY explained to the Committee the Indian mind-set and how they would apply it in hiring. REP. BIXBY stated she supported HB 423 and hoped that the Committee would also.

REP. GIBSON spoke in support of HB 423 and explained her reasons to the Committee. She declared she thought that this would be an incentive to Indian people to become teachers.

**Vote:** Motion failed 5-9 with REPS. GIBSON, BIXBY, BRANAE, FRITZ and GALVIN-HALCRO voting aye by roll call vote.

**Motion/Vote:** REP. LEHMAN moved that THE VOTE ON HB 423 BE REVERSED AND BE TABLED. Motion carried 14-0 by voice vote.

*{Tape: 1; Side: B; Approx. Time Counter: 0 - 20.1}*

**EXECUTIVE ACTION ON HB 422**

**Motion:** REP. BRANAE moved that HB 422 DO PASS.

**Discussion:**

REP. BALLANTYNE stated that even though he did not support HB 423 he did support HB 422. He explained that he felt the bill would encourage Indian students to become teachers and apply for teaching jobs on the reservations. He continued saying that he knew there were many teachers living on reservations that were not Indian and that HB 422 might encourage them to stay on the reservations to teach.

REP. LAKE stated he liked the idea the bill put forth but was not sure how the bill would help.

REP. BIXBY explained to the Committee that the Indian culture was its own worst enemy. She explained that with the Indian mind-set, they are afraid to hire their own people. She further explained that the Indian people simply seem to believe that someone else would be better. REP. BIXBY remarked that with a bill such as HB 422 in place it would possibly encourage Indian teachers to apply for those teaching jobs available on the reservations.

*{Tape: 1; Side: B; Approx. Time Counter: 20.1 - 26.5}*

REP. LAKE asked REP. BIXBY if a statute such as this would cause more problems within the community if a person were to come back and try to force themselves back into the system. REP. BIXBY stated she did not believe it would create a problem. She continued that she felt it would be beneficial to the Indian communities, not detrimental to them.

REP. WAGMAN stated that he opposed HB 422. He explained he did not believe in giving preferences.

CHAIRMAN ANDERSEN asked REP. BIXBY if she felt having the law on the books would change the perception as to who was qualified, or change the perception of the local school boards idea of two equally qualified candidates. REP. BIXBY stated she thought it might change the perception, in that if two candidates were

equally qualified they might hire the American Indian over the other candidate.

**CHAIRMAN ANDERSEN** asked REP. BIXBY if the local school boards didn't already have the ability to make the choice of the American Indian over a non-Indian. **REP. BIXBY** answered that they probably did, but it didn't happen that way. She pointed out that unless a person were to live on a reservation they would not see what happens or how Indians relate to situations.

**Vote:** Motion failed 6-8 with REPS. GIBSON, BIXBY, BALLANTYNE, BRANAE, FRITZ AND GALVIN-HALCRO voting aye by roll call vote.

**Motion/Vote:** REP. LEHMAN moved that **THE VOTE ON HB 422 BE REVERSED AND TABLED.** Motion carried 14-0 by voice vote.

**REP. LAWSON** announced that the Subcommittee on HB 302 would meet at 4:25 p.m. in Room 137 to continue their work on the bill.

*{Tape: 2; Side: A; Approx. Time Counter: 0 - 10}*



**ADJOURNMENT**

Adjournment: 4:16 P.M.

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REP. JOAN ANDERSEN, Chairman

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MARI PREWETT, Secretary

JA/MP

**EXHIBIT** (edh29aad)